

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Securities and Exchange Commission,

Civil No. 06-1213 (JRT/FLN)

Plaintiff,

v.

**REPORT AND  
RECOMMENDATION**

Sherwin P. Brown, Jamerica Financial, Inc.,  
and Brawta Ventures, LLC,

Defendants.

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Robert M. Moyer for Plaintiff.  
Sherwin P. Brown, *Pro Se*.  
Timothy J. Pramas, for Receiver.

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**THIS MATTER** came before the undersigned United States Magistrate Judge on Defendants' Motion to Dismiss [#416]. The matter was referred to the undersigned for Report and Recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1.

Plaintiff has been granted summary judgment on all of its claims against Defendants. The Court's Order of September 30, 2008 adopting the June 12, 2008 Report and Recommendation and the Court's Order of July 20, 2009 adopting the February 23, 2009 Report and Recommendation together grant Plaintiff summary judgment and impose financial penalties upon the Defendants. (Doc. Nos. 349, 380.) The September 30, 2008 Order granted summary judgment on all of Plaintiff's claims against Defendants, found Defendants liable to repay \$869,633 plus prejudgment interest, and found that Plaintiff is entitled to a permanent injunction against Defendants prohibiting Defendants from violating various securities laws. (Doc. No. 349 at 17-18.) The July 20, 2009 Order required Defendant Sherwin P. Brown to pay an \$80,000 civil penalty and required Defendant Jamerica Financial to pay a \$400,000 civil penalty. (Doc.

No. 380 at 6.) Plaintiff has now submitted a calculation of prejudgment interest in the amount of \$226,380.77. (Declaration of Jean Javorski at 4.)

Defendant now brings the instant motion to dismiss, which at this stage in the litigation is more properly characterized as a motion to alter or amend judgment under Rule 59(e) of the Federal Rules of Civil Procedure. District courts have “broad discretion in determining whether to grant or deny a motion to alter or amend judgment pursuant to Rule 59(e).” *United States v. Metro. St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006). In this case, where Defendants have had an opportunity to fairly and fully defend against Plaintiff’s claims for over three and a half years, the Court finds it inappropriate to grant Defendants’ motion.

Based upon all the files, records and proceedings herein, **IT IS HEREBY RECOMMENDED** that Defendant’s Motion to Dismiss [#416] be **DENIED**.

DATED: December 7, 2009

s/ Franklin L. Noel  
FRANKLIN L. NOEL  
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **December 21, 2009**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party’s brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3,500 words. A judge shall make a de novo determination of those portions to which objection is made.

Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed by **December 21, 2009** a complete transcript of the hearing.

